



LEXINGTON CITY COUNCIL AGENDA
Thursday, December 17, 2015 8:00 p.m.
Rockbridge County Administration Building
150 S. Main Street

1. Call to Order – Mayor Elrod

2. Approval of Minutes – Mayor Elrod

A. December 3, 2015 City Council Regular Meeting*

3. Public Hearing – Darren Coffey

A. To receive public comment on CUP2015-24, Conditional Use Permit for a Subway Restaurant at 122 South Main Street*

B. Consider approval of CUP2015-24, Conditional Use Permit for a Subway Restaurant at 122 South Main Street*

4. Citizens' Remarks and Comments

5. Consent Agenda

A. Robert E. Lee Hotel request for street closure New Year's Eve*

B. Cancel January 1, 2016 meeting of City Council for Holiday

6. Unfinished Business

7. Reports and Communications

A. City Council Committees

1. Finance Committee – F. Friedman
2. Physical Services Committee – M. Alexander
3. Social and Economic Services Committee – C. Smith

B. Boards and Commissions

1. Planning Commission – P. Rhamey
2. Central Shenandoah Planning District Commission – F. Friedman
3. Main Street Lexington – D. Sigler
4. Regional Tourism Board – C. Smith
5. Threshold – M. Alexander
6. Rockbridge Area Recreation Organization – D. Sigler

C. Mayor

D. City Manager

E. City Attorney

8. New Business

9. Adjourn

DRAFT



**Minutes
City Council Regular Meeting
December 3, 2015
Rockbridge Administration Building**

The following are Minutes of the Lexington City Council Regular Meeting held on Thursday, December 3, 2015 at 8:00 p.m. in the Rockbridge Administration Building, 150 S. Main Street, Lexington, Virginia.

Presiding:	Mayor Mimi Elrod	Staff:	N. Simon, City Manager
Present:	Marilyn Alexander		L. Mann, City Attorney
	Frank Friedman		B. Doyle, City Clerk
	Camille Miller		D. Coffey, Planning Director
	Patrick Rhamey		
	David Sigler	Press:	Kit Huffman, The News Gazette
	Chuck Smith		

CALL TO ORDER

Mayor Elrod called the meeting to order at 8:00 p.m. and asked for a moment of silence for the nation and for the survivors and families of the deceased in the San Bernadino California mass shooting.

STAFF INTRODUCTION

City Manager Noah Simon asked Darren Coffey to come forward and introduced Darren as our new Planning and Zoning Consultant. Mr. Coffey spoke briefly about The Berkley Group and their goals for the Lexington Planning and Development department.

APPROVAL OF MINUTES

The November 19, 2015 Physical Services Minutes were approved with two changes, Patrick Rhamey did not attend, but Kit Huffman did. The November 19, 2015 City Council Regular Meeting Minutes were approved with one change, The Berkley Group is from Bridgewater, not Stuarts Draft, Virginia.

PRESENTATION

Scott Jefferies provided an update on the Waddell School Construction and answered Council's questions. In response to Mr. Freidman's question on school census, Mr. Jefferies reported that the school population is higher than expected and higher than last year. The City Manager will provide the exact numbers of the school district's census. Councilmember Miller commended those involved in neighborhood communication for their responsiveness when there are problems and their fore warnings of unexpected noise or long work hours. Mayor Elrod thanked Mr. Jefferies for an excellent report.

CITIZENS' REMARKS AND COMMENTS

Joan Manley of 532 Fairview Place and Gail Newell of 125 Wallace Street spoke about the Miss Wheelchair Virginia contest and the opportunity the winner has to raise awareness of the need for accessibility of streets

and buildings, and as a public speaker against Drunk Driving. Ms. Manley held this honor 2009/2010, and Ms. Newell is seeking to compete in the March 2016 event.

Stephanie Wilkinson of 620 Stonewall Street thanked Lexington's leadership for their support for Main Street Lexington managing the annual community events such as the Christmas Parade with a record number of entries and for the Jingle Bell run with more than 250 entrants; a significant increase over last year. She especially acknowledged the assistance of Lt. Mike Frost of the Police Department and Mike Kennedy and John Smith of Public Works. Mayor Elrod thanked Main Street Lexington for their work for the City.

REPORTS AND COMMUNICATIONS

Council Committees

Finance Committee – Councilmember Friedman reported on the research assigned to him and City Manager Simon regarding the annual Agency Requests for funding. As planned at earlier meetings, Friedman and Simon met with the United Way and Washington and Lee staff members to propose that one of those organizations manage the agency selection process and distribution of funds. Councilmember Friedman reported that both organizations declined. Councilmember Miller suggested that the Finance Committee work with City Manager Simon on this year's agency requests, and later present recommendations to Council for approval. The Finance Chair, Councilmember Friedman agreed to have the Finance Committee and City Manager work together to develop a process.

Boards and Commissions

Tourism – Renovations began on the Visitor's Center bathrooms. Ms. Joan Manley asked Councilmember Smith to speak to the Tourism Board about installing a push button entry for the disabled.

Rockbridge Area Recreation Organization (RARO) – Councilmember Sigler reported that the Girls and Boys basketball program is underway with tremendous participation by local schools to provide courts on which to play. Mr. Sigler especially wanted to uplift Central Elementary School. Mr. Sigler also presented high compliments to the 24 volunteers helping the RARO programs from the undergraduates and staff of Washington Lee University. Additionally, the wrestling program has 69 participants but were lacking a space. Ramsey Community Center in Buena Vista may solve the venue problem.

City Attorney

Lexington Code of Ethics, Code of Conduct and Membership Statement – City Attorney Mann reported that the Local Government Attorneys of Virginia (<http://www.lgava.org/>) met in Roanoke at which they discussed codes of conduct, ethics, and member statements. The current trend is to split ethics and conduct into two sections. The new draft of the Code of Ethics, Conduct, and Member Statement reflect the current wisdom of the LGAVA. Mr. Mann presented it as a Resolution for Council's consideration. Councilmember Miller reported a spelling error on page 2, and was uncomfortable with the wording of Item E on the last page. **Councilmember Sigler moved to approve the Resolution adopting the Code of Ethics, Code of Conduct, and the Member Statement with the correction of the spelling error on page 2. Councilmember Rhamey seconded.** When the Mayor called for discussion, Councilmember Miller stated that she would vote yes for the Membership Statement if it could be made a separate document. She asked Mr. Sigler to amend his motion. He declined. Councilmember Rhamey asked about the enforcement

process, and the City Attorney stated that it is self-enforced. **With no further discussion, the Mayor called for a Roll Call Vote, which adopted the Resolution effective immediately by a 5-1 split vote, as follows:**

Alexander	Aye	Rhamey	Aye
Friedman	Aye	Sigler	Aye
Miller	Nay	Smith	Aye

City Manager's Contract Addendum – The Addendum to the City Manager's Contract changes the accrual of Paid Time Off to accrue the upcoming full year's PTO at the City Manager's anniversary instead of a number of hours accrued on each paycheck. **Councilmember Miller moved to approve the City Manager's Contract Addendum as presented by City Attorney Mann. Vice-Mayor Smith seconded the motion. Mayor Elrod took a Roll Call Vote, as follows:**

Alexander	Aye	Rhamey	Aye
Friedman	Aye	Sigler	Aye
Miller	Aye	Smith	Aye

The regular session of Lexington City Council adjourned at 8:48 p.m., followed by a closed session.

CLOSED SESSION

Vice Mayor Smith moved, with second by Councilmember Sigler, that Lexington City Council convene in Closed Session in accordance with Section 2.2-3711, Subsection A, of the Code of Virginia, as amended, in order to discuss matters identified as exempt pursuant to Section 2.2-3711, Subsection A, Paragraphs 1 and 7. The subjects to be addressed shall be personnel issues and consultation with legal counsel on contract negotiations on public safety. Roll call vote:

Alexander	Aye	Rhamey	Aye
Friedman	Aye	Sigler	Aye
Miller	Aye	Smith	Aye

RESOLUTION TO END CLOSED SESSION

WHEREAS, the Lexington City Council has convened a closed meeting on this date pursuant to an affirmative vote in accordance with the provision of the Virginia Freedom of Information Act, specifically Section 2.2-3711, Subsection A, Paragraphs 1 and 7. The subjects addressed were personnel issues and consultation with legal counsel on contract negotiations.

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by this City Council that such meeting was conducted in conformity with Virginia law;

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Lexington, Virginia, that the Council hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Lexington City Council. Closed Session adjourned at 9:55 p.m. and the Regular Session was reconvened.

Mayor Elrod adjourned the meeting at 9:23 p.m.

Mayor Mimi Elrod, Lexington, VA

Attest: Brenda L. Doyle, City Clerk



City Council Agenda Item December 17, 2015

TOPIC:

Conditional Use Permit Application CUP2015-24: Subway Restaurant at 122 South Main Street

BACKGROUND:

The Planning Commission and Lexington Planning and Development Departments have considered the Conditional Use Permit application submitted by Jason Harris for a Subway Restaurant at 122 South Main Street. On December 10, 2015, the Planning Commission voted 6 to 1 to approve application CUP2015-24, with the following conditions:

1. This conditional use permit shall only authorize a Subway Restaurant in the first floor of 122 South Main Street.
2. The restaurant shall not construct or utilize any external drive up or walk up windows from which food can be ordered or delivered.
3. Any dumpster or external refuse disposal container shall be completely screened from public rights-of way and any other adjacent land use.
4. Any proposed addition to the building associated with the restaurant use, including the establishment or designation of outdoor dining areas shall require a modification of the approved CUP.

Darren Coffey has attached a full packet of information including the Staff and Planning Commission recommendations. With the input from the Planning Commission, Planning and Development Staff, and public comment (if any) during the Public Hearing, City Council is asked to act on the proposed Conditional Use Permit Application CUP2015-24.

COSTS:

If approved, the City will receive permit revenue and eventual increased business tax revenue.

STAFF RECOMMENDATION:

To approve the Conditional Use Permit CUP2015-24 needed to install a Subway Restaurant at 122 South Main Street with the following conditions proposed by Planning and Development Staff.

1. This conditional use permit shall only authorize a restaurant where a substantial portion of the food to be served is consumed off-premises in the first floor of 122 South Main Street.
2. The restaurant shall not construct or utilize any external drive up or walk up windows from which food can be ordered or delivered.
3. Any dumpster or external refuse disposal container shall be completely screened from public rights-of way and any other adjacent land use. Refuse containers shall be as specified in the materials presented to the Planning Commission (in the project file) and containers shall be placed in accordance with all City regulations.
4. Any proposed addition to the building associated with the restaurant use, including the establishment or designation of outdoor dining areas shall require a modification of the approved CUP.

Staff Report & Recommendation
Conditional Use Permit
CUP2015-24 – 122 South Main Street

Project Name	Subway Restaurant
Property Location	122 South Main Street Tax Map #: 23-1-179
Zoning	C-1 (Commercial District (Central Business)) & Historic Downtown Preservation [Overlay] District
Owner/Applicant	Patricia M. Mountain, Trustee /Jason Harris
Applicant's Intent	An application by Jason Harris for a Conditional Use Permit to allow an existing building zoned C-1, located at 122 South Main Street (TM# 23-1-179) to be used as a restaurant where a substantial portion of the food to be served is consumed off-premises. A Subway Restaurant is proposed.

Location Map
(not to scale)



PLANNING COMMISSION RECOMMENDATION: Approval
STAFF RECOMMENDATION: Approval w/Conditions

OVERVIEW OF REQUEST AND BACKGROUND

This is a request by Jason Harris for a conditional use permit (CUP) to allow the operation of a restaurant where a substantial portion of the food served is consumed off-premises. A Subway Restaurant is proposed. The restaurant will be located on the first floor of a two story building located at 122 South Main Street. This commercial space was until recently the location of the *"Baby Gift Store"*, which has relocated to Nelson Street.

This property is zoned C-1 Central Business Commercial District and is subject to the Historic Downtown Preservation District Overlay. The city's zoning ordinance provides that two different types of restaurants are permitted in the C-1 District. Restaurants that serve food that is primarily consumed on-premises are a permitted use by-right in C-1 districts, and restaurants that serve food that is primarily consumed off-premises may locate in the C-1 district provided a CUP is granted by the City Council after review and recommendation by the Planning Commission.

THE PROPERTY AND SURROUNDING LAND USES

Two commercial buildings are located on this .0721 acre parcel. The vacant space that is the subject of this CUP fronts directly on South Main Street. A second commercial building is located at the rear of the property and is the location of the Museum of Military Memorabilia. Although Mr. Harris will be acquiring both buildings, this CUP is only for the first floor of the building fronting on Main Street.

Two apartments are located on the second floor of these two buildings.

Surrounding land uses are diverse. Uses include a bike shop, real estate office, Rockbridge Regional Library, Rockbridge County office building, a public parking lot, an insurance agency, a pharmacy, an interior design business, several restaurants and churches, and upper floor condominiums and apartments directly across South Main Street.

PROPOSED IMPROVEMENTS

The applicant is not proposing any modifications to the exterior of the building, with the possible exception of new signage. No outdoor dining spaces or on-site parking areas are proposed. Any new signage (or façade improvements) in the C-1 Downtown Historic Preservation District are the purview of the Architectural Review Board, which must review and grant a Certificate of Appropriateness (COA) authorizing façade renovations or external signage installation. A COA application has not been filed at this time. Interior renovations to the building will be undertaken to convert this previous retail space to restaurant use.

PUBLIC SERVICES AND FACILITIES

The site is currently served by public water and sewer, and natural gas. Public parking is available along both sides of South Main Street and in the public parking spaces in the lot adjacent to the Methodist Church. Land uses in the C-1 zoning district do not require minimum on-site parking. Refuse collection will be provided by the City, most likely via curb side pickup six days a week. The downtown site is in a fire and rescue service area easily accessible via South Main Street.

APPROVALS REQUIRED

1. Conditional Use Permit authorizing the requested use.
2. A COA authorizing exterior signage that may be proposed.
3. Building permit authorizing interior renovation.
4. A Certificate of Occupancy certifying all applicable codes have been met.

APPLICABLE ZONING ORDINANCE SECTIONS

C-1 Zoning District Intent and Conditional Use Requirement

Article IX, Commercial District (Central Business) C-1, Sections 420-79 and 420-81, in part

- Section 420-79., *Intent*
 - A. The purposes of this district are to enhance the utility, safety and attractiveness of the historic downtown business area for residents and visitors alike; to encourage the continuation of a compact, efficient and attractive retail facade and arrangement of buildings in the downtown area; and to minimize traffic congestion and its effects in the downtown area, all of which purposes are served by encouraging a compact and convenient arrangement of retail stores, offices, compatible service uses and the use of community parking areas and by discouraging those uses which are incompatible with permitted uses or which would tend to be disruptive of traffic and pedestrian flow and historic building patterns. To assist with the accomplishment of this purpose, certain uses, such as major parking lots, amusement places and drive-in facilities, are to be reviewed on a case-by-case basis and permitted, if at all, only by means of conditional use permit procedures.
 - B. Furthermore, the historic area regulations of Article XVII of this chapter apply to the Central Business District as a means of protecting this important element of the City's historic and architectural heritage.

Criteria for Issuance of Conditional Use Permit

The following findings are the criteria by which the Planning Commission and City Council determine the suitability of a proposed use subject to a Conditional Use Permit.

Article I., In General, Section 420-11, in part

- Section 420-11., *Conditional use permits*, in part

C. Conditions of Issuance

- (1) Conditional use permits may be issued for any of the uses for which a conditional use permit is required by the provisions of this chapter, provided that the governing body, upon a recommendation by the Planning Commission, shall find that:
 - (a) The proposed use will not affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use.
 - (b) The proposed use will not be detrimental to the public welfare or unduly injurious to property values or improvements in the neighborhood.
 - (c) The proposed use will not be in conflict with the policies and principles of the City's adopted Comprehensive Plan.
 - (d) Adequate public services, including streets and other trafficways, utilities, police and fire protection, are or reasonably will be available to support the proposed use.
- (3) In granting any conditional use permit, the governing body shall give due consideration to factors relevant to the findings required by Subsection C (1) as well as to any other reasonable land use and zoning considerations as may be required by the nature of the proposed use or as may be otherwise appropriate to effectuate the intent of this chapter, and the governing body shall designate such conditions as it deems necessary to carry out the intent of this chapter. The application for such conditional use permit shall be accompanied by such written and graphic material as may be necessary to

enable the Planning Commission and the governing body to make the recommendation and findings set forth above.

STAFF FINDINGS

In consideration of the four (4) criteria contained Section 420-11, C. 1., the staff finds that:

- (a) The proposed use, does not present any unique circumstances or detrimental impacts that will affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use. Any impacts associated with the proposed use, are not uncommon to other uses in the area.
- (b) The proposed restaurant is a small scale use, comparable or smaller in size than other restaurants in the C-1 Main Street Corridor. Although a substantial portion of the food provided may well be consumed off premises, the proposed use does not have the operating characteristics of other “fast food” restaurants such as drive through facilities, external order stations, external speaker systems, or standardized building architecture that defines and identifies the name of the proposed restaurant and the products available.
- (c) The proposed use, will not be detrimental to the public welfare or unduly injurious to property values or improvements in the neighborhood.
- (d) The proposed restaurant will provide additional food options in the South Main corridor, and as a destination, attract additional economic activity to the South Main area. Most downtown restaurants are now located in the North Main, Washington Street and Nelson Street corridors.
- (e) The proposed use will not be in conflict with the policies and principles of the City’s adopted Comprehensive Plan.
- (f) Although the Comprehensive Plan does not directly address restaurants in the downtown area, it does advocate commercial activity in locations where highway use is not impaired, and safety hazards are not created (Economy Chapter Goal, 5).
- (g) The Comprehensive Plan also states that commercial activities should be encouraged to locate in established areas (Objective A, Goal 5), and provide uniform sign treatment (Objective B). Expanding the viability and diversity of downtown businesses is also a goal of the plan.

RECOMMENDATION

Based on the aforementioned characteristics of the proposed use, and the findings identified above, the staff recommends approval of the conditional use permit with the following conditions.

1. This conditional use permit shall only authorize a restaurant where a substantial portion of the food to be served is consumed off-premises in the first floor of 122 South Main Street.
2. The restaurant shall not construct or utilize any external drive up or walk up windows from which food can be ordered or delivered.
3. Any dumpster or external refuse disposal container shall be completely screened from public rights-of way and any other adjacent land use. Refuse containers shall be as specified in the materials presented to the Planning Commission (in the project file) and containers shall be placed in accordance with all City regulations.
4. Any proposed addition to the building associated with the restaurant use, including the establishment or designation of outdoor dining areas shall require a modification of the approved CUP.



City Council Consent Agenda Item December 17, 2015

TOPIC:

Street Closure for Robert E. Lee Hotel on 12-31-15 on Main Street from 11:00 p.m. – 12:15 a.m.

BACKGROUND:

Attached is an email from Chief Executive Office Sean Taylor requesting street closure for The Robert E. Lee Hotel New Year's Eve event, "Times Square in Lexington, VA." Although Mr. Taylor requested closure from 9:00 p.m., the Lexington Police Department can accommodate 11:00 p.m., not 9:00. Mr. Taylor is amenable to that change.

COST(S)/ACCOUNT NUMBER(S):

The Lexington Police Department will schedule an additional officer to patrol this event because all on-duty personnel will be busy on this holiday night.

MANAGER'S RECOMMENDATION:

To approve the Robert E. Lee Hotel's request for street closure on December 31, 2015 from 11:00 p.m. – 12:15 a.m. on Main Street between Nelson and Washington Streets with assistance from the Lexington Police Department.



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